

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. Based on information she furnished to the Department it appears the petitioner rents a home computer for \$123 a month and pays \$29 a month for an internet connection and about \$30 a month for an extra telephone line for her modem.

She requests that these expenses be considered allowable deductions from her income in determining the amount of her Food Stamps and her spenddown amount under Medicaid.

3. In support of this request the petitioner furnished the following statement from her doctor:

This letter is being written on behalf of [petitioner] and her fair case hearing # 18,912. [Petitioner] has been a patient here since 12/02. She suffers from mild to moderate high frequency hearing loss (see enclosed audiograms) which has progressed since last tested 11/00. It is my understanding that [petitioner] is requesting that the State Medicaid system allow her to use the cost of her computer and internet services as part of her Medicaid spend-down. She uses Email extensively to "stay in touch" with the outside world. I understand that you recommend coverage for a TTY, instead. [Petitioner] finds this technology outmoded and archaic. The Americans with Disabilities Act states that public entities "must provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice. This expressed choice shall be given primary consideration by the public entity. The deaf individual's own assessment of the necessary type or level of service is entitled to primary consideration.

Please allow my patient the opportunity to continue to use her home computer and internet services as such a necessary device, within the ability of the Medicaid system of coverage of health related needs. Thank you for your time and consideration.

4. Based on the above, it cannot be concluded that the petitioner's use of the Internet or email is *required* by her medical condition. There is no evidence that she relies upon her computer to access any form of medical care. There is

also no showing that her health would be jeopardized if she did not have access to a personal computer.

5. The petitioner also seeks to be allowed to deduct her snowplowing expenses of about \$100 last winter as a necessary medical expense because she and her husband are disabled and cannot shovel their driveway themselves.

ORDER

The Department's decisions are affirmed.

REASONS

The regulation governing allowable spenddown expenses under Medicaid is W.A.M. § M421.2, which includes the following:

A deduction from excess income is allowed for necessary medical and remedial expenses recognized by state law but not covered by Medicaid in the absence of an exception for Medicaid coverage under M108. In determining whether a medical expense meets these criteria, the commissioner may require an individual Medicaid group to submit medical or other related information to verify that the service or item for which the expense was incurred was medically necessary and was a medical or remedial expense. The patient's physician shall verify medical necessity with a written statement or prescription specifying the need, quantity and time period covered.
. . .

As noted above, there is no evidence that the petitioner's computer is *necessary* for her to obtain medical care or otherwise maintain her health. It appears that it is

the preferred medium of personal communication for her *because* of her medical condition, but no non-prosthetic communication devices (including telephones¹) are counted as allowable *medical* expenses under Medicaid.

Similarly, it cannot be concluded that snowplowing services constitute a medical expense under the above regulation. The petitioner's health and safety may well require that her driveway be accessible. But, it is also true that having shelter, heat, and food are necessary to maintain one's health. Unfortunately, the Medicaid program does not allow deductions from income for such basic and necessary living expenses. Clearly, such costs are distinguishable from medical expenses incurred in the *treatment* of a health condition, as is contemplated by the above regulation.

For Food Stamps, under F.S.M. § 273.9(d)(3) allowable "excess medical" deductions are specifically limited to payments for direct medical and dental care, hospitalization, prescription drugs, basic health care insurance premiums, "dentures, hearing aids, and prosthetics", seeing eye dogs, glasses, and transportation costs in obtaining medical care.

¹ Low income individuals and families can qualify for "lifeline" assistance with their telephone bills. It is unknown whether the petitioner takes advantage of this program.

Again, absent any evidence that the petitioner's computer is in any way related to prescribed medical *treatment*, it cannot be concluded that it qualifies for a deduction as an excess medical expense for Food Stamps.²

Inasmuch as the Department's decisions in this matter are in accord with the pertinent regulations, the Board is bound to affirm. 3 V.S.A. 3091(d), Fair Hearing Rule No. 17.

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² The cost of maintaining basic phone service is allowable as a "shelter expense" under F.S.M. § 273.9(d)(5)(i)(C). Presumably the Department has already allowed the petitioner this deduction.